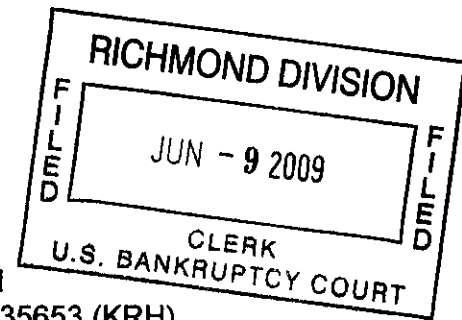


UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION



INRE:
CIRCUIT CITY STORES, INC.
et al

CHAPTER 11
Case No. 08-35653 (KRH)
Jointly Administered

RESPONSE AND OBJECTION OF **RETAIL MDS, INC.** TO
FIFTH OMNIBUS OBJECTION [DOC. 3309] TO CERTAIN
MISCLASSIFIED NON-GOODS 503 (b)(9) CLAIMS

1. Retail MDS, Inc. ("MDS") is a claimant of Circuit City Stores [Case No. 08-35653] and objects to the Fifth Omnibus Objection.
2. MDS filed a Proof of Claim [No. 663]—the entirety of which is incorporated as if fully attached—pursuant to 11 USC §503(b)(9), on December 8, 2008 ("Claim"), in the amount of \$43,173.80, *inter alia*, at the direct and insistence of Debtor as a specific inducement to MDS so it would continue its business relationship with Debtor on a post-petition basis.
3. The Claim represents, in whole or in part, for replacement, repair, and provision of materials, e.g., counters, cabinets, wood, building materials, fixtures, dump fees, steel, fasteners, and electrical wiring and supplies. The amount of materials is more than one half of the entire claim, as set forth in the attachment hereto.
4. The Claim also represents goods that could not be reclaimed under Bankruptcy Code §546 insofar as they were not items of inventory or anything Debtor would offer for sale. Rather, the goods became part of Debtor's various premises and were essential to it on-going (pre- and post-petition) business operations.
5. The Declaration of Michael DeSanto, President of MDS is attached an

incorporated by reference.

6. In addition to the documentation attached to the Proof of Claim, the following additional information is attached:

Analysis of materials and goods supplied - total \$ \$22,310, approximately 52% of the total claim.

7. Notice Addresses and Party with Authority to Reconcile:

Howard Gershman Esquire
Gershman Law Offices, PC
610 York Road, Suite 200
Jenkintown, PA 19046
Tel: 215.886.1120
Fax: 215.886.1118

Date: June 5, 2009

Retail MDS, Inc.


Michael DeSanto, President

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

INRE:

CIRCUIT CITY STORES, INC.
et al

CHAPTER 11
Case No. 08-35653 (KRH)
Jointly Administered

DECLARATION IN SUPPORT OF
RESPONSE AND OBJECTION OF **REATAL MDS, INC.** TO
FIFTH OMNIBUS OBJECTION [DOC. 3309] TO CERTAIN
MISCLASSIFIED NON-GOODS 503 (b)(9) CLAIMS

Michael DeSanto, hereby verifies that he is the President of Retail MDS, Inc., and that the statements and attachments contained in the Response—all information being of personal knowledge and/or from ordinarily maintained business records over which he has custody or control—are true and correct to the best of his information, knowledge and belief. He further verifies that this statement is subject to the penalties of 18 PACSA §4904 relating to unsworn falsification to authorities.


Michael DeSanto

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

INRE:

CIRCUIT CITY STORES, INC.
et al

CHAPTER 11
Case No. 08-35653 (KRH)
Jointly Administered

CERTIFICATION OF SERVICE

I certify that a true and correct copy of the foregoing Response of Retail MDS
was served by first class mail, posted this date upon:

SKADDEN ARPS SLATE
MEAGHER AND FLOM, LLP
One Rodney Square
PO Box 636
Wilmington, DE 19899-9636
Attn: Gregg M. Galardi
Attn: Ian S. Fredericks

MAGUIREWOODS LLP
One James Center
901 E. Cary Street
Richmond, VA 23219
Attn: Dion W. Hayes
Attn: Douglas M. Foley

SKADDEN ARPS SLATE
MEAGHER AND FLOM, LLP
333 West Wacker Drive
Chicago, IL 60606
Attn: Chris L. Dickerson

June 5, 2009


Howard Gershman, Esquire

Invoice #

CC2008-2546 supplied electrical wire to supply power to track lights (materials 400)
CC2008-2547 install and ,re laminate comcast desk (flakeboard,laminate, adhesive, materials 750)
CC2008-2548 more repairs (flakeboard,laminate adhesive) made to desk (materials 200.00)
CC2008-2549 repairs made to com cast desk (flakeboard,laminate and adhesive, materials 200.00) CC2008-2550 repairs made to comcast desk (flakeboard,laminate and adhesive, materials \$200.00)
CC2008-2551 repairs made to comcast desk (flakeboard,laminate and adhesive, materials \$200.00)
CC2008-2552 repairs made to comcast desk (flakeboard,laminate and adhesive, materials \$200.00)
CC2008-2553 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 750)
CC2008-2554 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 750)
CC2008-2555 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 750)
CC2008-2556 install and re laminate comcast desk (flakeboard, laminate and adhesive, materials 750)
CC2008-2558 demo large design center, using 2 lifts, 2 dumpsters repairing the same area after (drywall, spackle, paint, carpet, adhesive, cove base, cove base adhesive, materials \$2000)
CC2008-2559 install and re laminate comcast desk (flakeboard, laminate and adhesive, materials 700) CC2008-2560 install and re laminate comcast desk (flakeboard laminate and adhesive, materials 700)
CC2008-2561 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 700)
CC2008-2564 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 700)
CC2008-2565 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 700)
CC2008-2566 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 700)
CC2008-2567 repairs made to camcast desk (flakeboard,laminate and adhesive, materials 200)
CC2008-2569 repairs made to comcast desk (flakeboard,laminate and adhesive, materials 200)
CC2008-2570 install and re laminate comcast desk (laminate and adhesive, materials 700)
CC2008-2571 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 700)
CC2008-2583 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 700)
CC2008-2584 install and re laminate comcast desk (flakeboard,laminate and adhesive, materials 700)

CC2008-2585 install and re laminate comcast desk (flakeboard, laminate and adhesive, materials 700)
CC2008-2591 demo large design center, usinst 1 lift , 1 dumpster, repairing walls with (drywall, spackle, paint, carpet, adhesive, cove base cove base adhesive, materials 1800)
CC2008-2592 install and re laminate comcast desk (laminate and adhesive, materials 700)
CC2008-2601 repairs made to desk (flakeboard, laminate, adhesive, materials 200)
CC2008-2602 rental truck, and dump fees (total for truck and dump 650)
CC2008-2603 rental truck and dump fees (total for truck and dump 650)
CC2008-2604 lay out and anchor down all bollards (materials brass 5" x 1/2" anchors with washers and bolts, 4 1/2" concrete drill bits 210)
CC2008-2606 repair damaged fixtures (flakeboard, laminate, adhesive, spray 90, maplewood, pineboard, materials 600)
CC2008-2642 repair damaged fixture (flakeboard, laminate, adhesive, silicone, materials 900)
CC2008-2646 rack repairs with new steel 3" x 3" x 20' and 1.5" x 1.5" x 20', anchors, and concrete drill bits, materials 650)
CC2008-2703 install and re laminate comcast desk (flakeboard, laminate, adhesive, materials 700)
CC2008-2704 install and re laminate comcast desk (flakeboard, laminate, adhesive, materials 700)

Michael DeSanto
President
Retail MDS, Inc.

GERSHMAN LAW OFFICES, PC
A PROFESSIONAL CORPORATION

HOWARD GERSHMAN
ATTORNEY AT LAW

610 YORK ROAD, SUITE 200
JENKINTOWN, PA 19046
TELEPHONE: 215-886-1120
FACSIMILE: 215-886-1118
E-mail: howard@gershman-law.com

June 5, 2009

Clerk, US Bankruptcy Court
701 East Broad Street, Room 400
Richmond, VA 23219

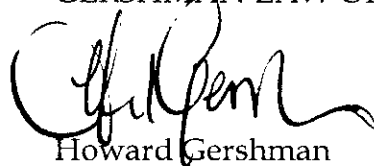
Re: Circuit City Stores, No. 08-35653
Response and Objection of Retail MDS, Inc. to
Fifth Omnibus Objection to Misclassified Claims

Dear Sir/Madam:

Enclosed please find an original and copy of the above pleading. Please file the original and return a time-stamped copy in the envelope provided.

Thank you for your assistance.

Very truly yours,
GERSHMAN LAW OFFICES, PC



Howard Gershman

cc: Retail MDS
ENC.